IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4242 of 2024
and W.M.P.No.4556 of 2024

AV Bagmiller Private Limited
Represented by its Managing Director,
Mr.P.Varun Sethiya,
Shop No.37, Shalom Building, 4, Mannar Street, T.Nagar,
Chennai 600 017. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Ref. No. ZA330223076184U and quash the proceedings dated 15.02.2023 passed therein and further direct the respondent to restore the petitioner's GST Registration No.

33AAQCA2337R1Z6 granted under the TNGST / CGST Act, 2017.

For Petitioner : Mr.K.Thyagarajan

For Respondent : Mr.V.Prasanth Kiran, GA (T)

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ORDER

The petitioner challenges an order of cancellation of its GST registration. The petitioner asserts that it is engaged in the business of manufacturing school bags for educational institutions. As a registered person under applicable GST laws, it is stated that the petitioner filed returns and paid tax dues regularly. On account of financial constraints, it is stated that the petitioner's business was badly affected and the petitioner was unable to file its GST returns.

2. Until the impugned cancellation order was issued, the petitioner states that it was unaware of the issuance of a show cause

notice. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the impugned order does not contain any reasons for cancellation of registration. With reference to the show cause notice, he states that the petitioner had not filed returns for about four months and not six months as wrongly stated in the show cause notice. By referring to the earlier order of this Court dated 11.01.2024 in W.P.No.400 of 2024, he submits that the registration is liable to be restored in the facts and circumstances.

4. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He submits that the petitioner admitted in its affidavit that it had not filed GST returns for a continuous period of six months. In these circumstances, he submits

that the petitioner's registration should not be restored and, in any event, if the petitioner had carried on business after the cancellation of registration, it should be left open to the respondent to initiate proceedings in respect thereof.

5. The petitioner placed on record the order of cancellation. Such order clearly does not contain any reasons for cancellation. Besides, the order refers to a reply dated 08.11.2022 to the show ause notice. The petitioner has asserted categorically that it was unaware of the show cause notice and therefore did not reply thereto. Thus, the impugned order is vitiated by complete non application of mind.

6. In largely similar circumstances, in the order dated 11.01.2024 in W.P.No.451 of 2024, the writ petition was allowed and the respondent was directed to restore the GST registration. Since the facts and circumstances substantially mirror those prevailing in the said case, it is just and appropriate that a similar order be passed

albeit by reserving the right of the respondent to initiate action in respect of business, if any, carried on by the petitioner after its registration was cancelled.

7. Accordingly, W.P.No.4242 of 2024 is allowed on the following terms:

(i) The order dated 15.02.2023 cancelling the petitioner's GST registration is quashed.

(ii) As a corollary, the respondent is directed to restore the GST registration forthwith.

(iii) It is open to the respondent to issue a fresh show cause notice in accordance with law in relation to the cancellation of the petitioner's GST registration and issue a fresh order after providing a reasonable opportunity to the petitioner.

(iv) It is open to the respondent to initiate action against the petitioner if the petitioner had carried on business after the GST registration was cancelled.

(v) No costs.

(vi) Consequently, W.M.P.No.4556 of 2024 is closed.

22.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

rna

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and W.M.P.No.4556 of 2024